

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

JURAN BATISTE : **CASE NO. 2:24-CV-01231**

VERSUS : **JUDGE JAMES D. CAIN, JR.**

CITGO PETROLEUM CORP : **MAGISTRATE JUDGE LEBLANC**

REPORT AND RECOMMENDATION

Before the court is a Motion to Remand filed by Plaintiff Juran Batiste (“Batiste”). Doc. 8. The motion is not opposed by removing Defendant CITGO Petroleum Corporation (“CITGO”). Doc. 13. The motion has been referred to the undersigned for review, report, and recommendation in accordance with the provisions of 28 U.S.C. § 636.

For the reasons stated **IT IS RECOMMENDED** that the motion be **GRANTED**.

**I.
BACKGROUND**

Batiste filed suit in the 14th Judicial District Court, Parish of Calcasieu, State of Louisiana. Doc. 1, att. 1. The petition alleges that Batiste sustained personal injuries as a result of an accident on the premises of CITGO’s Lake Charles facility while employed by Trillium Staffing. *Id.* CITGO timely removed the case to this court under 28 U.S.C. § 1332, asserting that diversity jurisdiction exists because the amount in controversy exceeds \$75,000 and the parties are of diverse citizenship. Doc. 1, att. 1.

Before CITGO removed the case, Batiste’s employer, Trillium Staffing Solutions, and its Workers’ Compensation Insurer, XL Specialty Insurance Company (“XL”), filed a Petition of Intervention, asserting that they are legally and contractually subrogated to the rights of Batiste, to the extent of amounts paid out as workers’ compensation benefits, and asserting a lien for recovery of amounts owed. Doc. 8, att. 2. After CITGO removed the case, it was served with the petition for intervention. Doc. 13.

Plaintiff Batiste filed a timely motion to remand. Doc. 8. The motion to remand asserts that both defendant CITGO and intervenor XL are citizens of Delaware, destroying diversity of citizenship. Doc. 8, att. 1, pp. 2-3. In response to the motion to remand, CITGO acknowledges that “XL’s presence as a non-diverse party destroys subject matter jurisdiction in this matter,” and CITGO therefore does not oppose the motion to remand. Doc. 13.

II. LAW AND ANALYSIS

“‘Federal courts are courts of limited jurisdiction,’ possessing ‘only that power authorized by Constitution and by statute.’” *Gunn v. Minton*, 568 U.S. 251, 256, 133 S. Ct. 1059, 1064 (2013) (citing *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377, 114 S. Ct. 1673, 1675 (1994)). Any civil action brought in a state court of which the district courts have original jurisdiction may be removed to the proper district court. 29 U.S.C. § 1441(a). District courts have original jurisdiction over all civil actions between citizens of different states where the amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332(a)(1). “Defendants may remove an action on the basis of diversity of citizenship if there is complete diversity between all named plaintiffs and all named defendants, and no defendant is a citizen of the forum State.” *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 84, 126 S. Ct. 606, 609 (2005).

Both parties agree that intervenor XL shares citizenship with CITGO. When a party asserting a workers' compensation lien intervenes, that party is treated as aligned with the plaintiff for the purposes of assessing diversity of citizenship. *Patterson v. Corvel Corp.*, No. 21-CV-1305, 2021 WL 4047391, at *2 (W.D. La. Aug. 12, 2021), *report and recommendation adopted*, No. 21-CV-1305, 2021 WL 4035010 (W.D. La. Sept. 3, 2021) ("a workers' compensation insurer is an intervenor of right under Fed. R. Civ. Pro. 24 in such circumstances, the intervenor should be treated as an intervenor-plaintiff because its interests are aligned with the plaintiff . . ."); *Youngblood v. Rain CII Carbon LLC*, No. 12-CV-000287, 2014 WL 2547588, at *4 (W.D. La. June 4, 2014) (same); *Grizer v. CF Indus., Inc.*, No. CV 16-145-SDD-EWD, 2017 WL 2608860, at *5 (M.D. La. May 26, 2017), *report and recommendation adopted*, No. CV 16-145-SDD-EWD, 2017 WL 2604257 (M.D. La. June 15, 2017) (reasoning that workers compensation insurer should be aligned as intervenor-plaintiff because it has an interest in maximizing plaintiff's recovery against defendant, so as to maximize its own recovery). When intervenor XL is aligned with plaintiff, the parties are not diverse because XL and defendant CITGO share Delaware citizenship.

Although intervenor XL does not yet appear on the record of this court as a party, there is no dispute that XL filed its petition for intervention before this matter was removed.¹ There being no opposition to the motion to remand and no dispute that XL's presence destroys the diversity of citizenship, remand is appropriate.

III. CONCLUSION

For the reasons stated, **IT IS RECOMMENDED** that the Motion to Remand [doc. 8] be **GRANTED** and that this matter be remanded to the 14th Judicial District Court, Parish of Calcasieu, State of Louisiana.

¹ A copy of the Petition of Intervention appears as an attachment to the motion to remand, at doc. 8, att. 2.

Under the provisions of 28 U.S.C. §636 and Rule 72 of the Federal Rules of Civil Procedure, parties have fourteen (14) days from receipt of this Report and Recommendation to file written objections with the Clerk of Court. A party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within fourteen (14) days following the date of receipt shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. *See Douglas v. United Services Automobile Ass'n*, 79 F.3d 1415, 1429-30 (5th Cir.1996).

SO ORDERED at Lake Charles, Louisiana, this 6th day of January, 2025.



THOMAS P. LEBLANC
UNITED STATES MAGISTRATE JUDGE